



Birmingham Medical News: Protecting Patients from "Surprise" Medical Bills (June 2019)

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06.19.2019

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Lawmakers in both the United States House and Senate are considering two proposals to address unexpected, patient medical bills from out-of-network providers. Often referred to as "surprise medical bills" or "balance billing", the situation arises when a patient inadvertently receives care from an out-of-network provider. Often, the patient is not aware that an out-of-network provider has rendered services until receiving the bill. According to a 2018 study by the Kaiser Family Foundation, about 18% of inpatient admissions result in charges by out-of-network providers. For emergency room services, out-of-network services occur 24% of the time.

Surprise medical bills can occur when a patient receives planned care from an in-network facility, such as a hospital, but other out-of-network providers also provide professional services, such as an anesthesiologist, radiologist or pathologist. It can also arise when a patient is in need of emergency care and has no ability to select the hospital emergency room, treating physicians or ambulance provider. If any of the emergency providers are out-of-network, the patient can receive a bill reflecting the full charge for the professional service rendered. For example, a patient inadvertently receives care from an out-of-network provider and the provider submits a charge of \$1,000 to the patient's insurance company. The insurance company pays 10% of the charge, rather than the fee schedule amount that applies to in-network providers. After receiving the insurance payment, the provider balance bills the patient the remaining \$900. This type of arrangement is generally

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prohibited when a provider has a contract with the patient's insurer, including Medicare or Medicaid. Absent applicable state law, it is, however, permissible for an out-of-network provider to bill a patient the remainder of the full charge amount.

On May 16, 2019, the "STOP Surprise Medical Bills Act of 2019" was introduced in the Senate. The House has proposed similar legislation called the "No Surprise Act." Both the Senate and the House measures would prohibit balance billing for all emergency services and require that providers bill the patient the in-network rate. In addition, hospitals and physicians would be required to provide patients scheduling non-emergency treatment written and verbal notice of out-of-network and in-network provider status and whether balance billing charges might occur. Patients who do not consent in writing to the additional charges could not be balance billed. Finally, both measures would prohibit balance billing when a patient is not able to choose the provider, including where a patient receives care from an out-of-network physician during an in-network hospital stay. The Senate bill also protects patients from surprise medical bills from an out-of-network clinical lab or diagnostic imaging center when the services are ordered by the patient's in-network physician. Under both proposals, the insurer would be required to reimburse the out-of-network provider the median in-network rate in the applicable geographic market. The Senate version also gives the insurer and provider the option to request an arbitrator to determine the appropriate rate of reimbursement.

Twenty-one states have adopted laws to protect patients from surprise medical bills, but according to the Commonwealth Fund only six states provide a comprehensive approach to safeguard patients. Alabama does not have any laws specifically addressing surprise medical billing. Existing state laws would not be superseded by any federal legislation.

In February of this year, a coalition of groups representing hospitals and health systems sent a letter to Congress in support for legislation to protect patients from surprise medical bills for emergency care from an out-of-network provider. The letter was signed by the American Hospital Association, America's Essential Hospitals, Association of American Medical Colleges, Catholic Health Association of the United States, Children's Hospital Association, and Federation of American Hospitals.

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